



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MAY - 5 2016

VIA UPS and Electronic Mail

Mr. Brian Osborn, President
Mr. Matthew Twichell, Director of Permitting
Dana Mining Company of PA, LLC
103 Corporate Drive, Suite 102
Morgantown, WV 26501

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act
(33 U.S.C. § 1318)**

Dear Mr. Osborn and Mr. Twichell:

This Request for Information is issued under the authority vested in the United States Environmental Protection Agency ("EPA") by Section 308 of the Clean Water Act ("the Act"), 33 U.S.C. § 1318. EPA is authorized under Section 308(a) of the Act, 33 U.S.C. § 1318(a), to require owners and operators of point sources to establish records and make such reports necessary to carry out the purposes of the Act, including but not limited to:

1. Developing or assisting in the development of any effluent limitation, or other limitation, prohibition, effluent standard, pretreatment standard, or standard of performance under the Act;
2. Determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance;
3. Fulfilling any requirement under Section 308 of the Act; and
4. Carrying out Sections 305, 311, 402, 404 and 504 of the Act.

Failure to respond as directed to a CWA Section 308 request is punishable under the civil and criminal provisions of Section 309 of the CWA, which provide for the assessment of penalties, injunctive relief and imprisonment. Providing misleading or false information may subject you to civil and criminal sanctions. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

You may, if you desire, assert a business confidentiality claim covering all or part of the information



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requested herein in the manner described in 40 C.F.R. Section 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information requested herein when it is received by EPA, it may be made available to the public by EPA without further notice. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act U.S.C. Chapter 35. (See 5 C.F.R. Section 1320.3(c)).

Accordingly, pursuant to Section 308 of the Act, 33 U.S.C. § 1318, Dana Mining Company of PA, Inc., including any subsidiaries, affiliates, or related entities (Dana Mining) is directed to provide EPA the information requested in the enclosed Order. All information should be submitted and sent on appropriate media as specified to:

Bette Conway, LPG
NPDES Permits Branch (3WP41)
Water Protection Division
U. S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

Please forward the requested information within the timeframes contained in the enclosed information request.

Section 308 of the Act, 33 U.S.C. § 1318, requires the Respondent to provide accurate and complete information in response to the questions contained in this Request for Information. All submissions provided pursuant to this request shall be signed, certified and dated by a responsible official of Dana Mining as provided in the enclosed Request for Information.

I appreciate your cooperation and prompt attention to this matter. If you would like an opportunity to confer, or if you have any questions relating to this Request for Information, please contact Bette Conway at 215 814-5744. Legal questions should be addressed to Douglas Frankenthaler at 215 814-2472.

Sincerely,



for

David B. McGuigan, Ph.D.
Associate Director, Water Protection Division
Office of NPDES Permits and Enforcement

Enclosure

cc: D. Frankenthaler, EPA Region 3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In The Matter of: :
Dana Mining Company of PA, LLC :
Proceeding Under Section 308 of :
The Clean Water Act, 33 U.S.C. § 1318 :
Attn: Brian Osborn, President, :
Matthew Twichell, Director of Permitting :
Dana Mining Company of PA, LLC :
103 Corporate Drive, suite 102 :
Morgantown, WV 26501 :

Respondent :

REQUEST FOR INFORMATION

REQUEST FOR INFORMATION

I. STATUTORY AUTHORITY

1. This Request for Information is issued under the authority vested in the United States Environmental Protection Agency ("EPA") by Section 308 of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1318. The Administrator of the EPA has delegated this authority to the Regional Administrator of EPA Region III who in turn has delegated it to the Director of the Water Protection Division of EPA Region III, who in turn has delegated it to the Associate Director of The Water Protection Division, David McGuigan. EPA hereby requires that Dana Mining Company of PA, Inc. ("Respondent") provide information regarding its Coal Mining Operations located in Pennsylvania.

II. STATUTORY AND REGULATORY BACKGROUND

2. EPA is authorized under Section 308 of the Federal Water Pollution Control Act ("Clean Water Act" or "the Act"), 33 U.S.C. § 1318, to require owners and operators of point sources to establish records and make such reports as may be necessary to carry out the purpose of the Act, including but not limited to:
 - (a) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, effluent standard, pretreatment standard, or standard of performance under the Clean Water Act;
 - (b) determining whether any person is in violation of any such effluent limitations, or other

limitations, prohibition, effluent standard, pretreatment standard, or standard of performance under the Clean Water Act;

- (c) any requirement under Section 308 of the Clean Water Act; and
 - (d) carrying out Sections 305, 311, 402, and 504 of the Clean Water Act.
3. Any failure to respond as directed is punishable under the civil and criminal provisions of Section 309 of the Act, which provide for the assessment of penalties, injunctive relief and imprisonment.
 4. You may, if you desire, assert a business confidentiality claim covering all or part of the information requested herein in the manner described in 40 C.F.R. Section 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information requested herein when it is received by EPA, it may be made available to the public by EPA without further notice. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act U.S.C. Chapter 35. (See 5 C.F.R. Section 1320.3(c)).

III. INSTRUCTIONS AND DEFINITIONS

5. The use of the term “Dana Mining” or “Respondent” shall mean Dana Mining Company of PA, LLC, and all of its subsidiaries, resources groups, or other corporate entities. Thus, the response to each question concerning Dana Mining or Dana Mining’s activities should reflect information regarding each and every entity.
6. The use of the term “mining operations” shall mean the following: The Dooley Run Mine and all associated surface and underground mining facilities that are a part of this facility, coal processing and preparation plants, coal transportation facilities and all associated operations.
7. The term “Whole Effluent Toxicity (WET) testing report” shall mean the WET testing report and its findings/conclusions.
8. Provide all documents in Dana Mining’s possession that relate to the responses given. With respect to each document, identify the date, author, addressee, current location, and custodian and identify the question or subpart to which it relates.
9. “Document” is defined as any writings, drawings, graphs, charts, photographs, phone records, field records, operation logs/notes/field rounds sheets, electronic mail, facsimile, supervisory control and data acquisition (SCADA) information, and other data compilations from which information can be obtained, translated if necessary, through detection devices into reasonably usable form. Documents should be produced as they are kept in the usual course of business.
10. Provide files in the following formats: MS Word Document, MS Excel Spreadsheet, MS Access Database, Adobe Acrobat Reader PDF format, or pictures and images in JPEG format.
11. Where specified, Dana Mining must submit information in the requested electronic file format.

12. Where a particular file format is not specified, select an appropriate file format from those formats listed above.
13. For data that is requested in tabular format, the data shall be accumulated and organized into a clearly labeled and annotated MS Excel Spreadsheet. The spreadsheet shall be formatted so that it can be printed on an 8.5" x 11" sheet of paper. The spreadsheet can be formatted to print on an 11" x 17" sheet of paper if doing so offers additional clarity.
14. The term "Toxicity Identification Evaluation/Toxicity Reduction Evaluation" or "TIE/TRE" shall mean a set of procedures that uses physical and chemical treatments to identify or classify the specific chemical compounds causing toxicity in an effluent sample and a methodical, stepwise investigation of the cause(s) of, and appropriate control(s) to eliminate the toxicity, performed consistent with applicable EPA guidance and technical requirements, including:
 - EPA's *Technical Support for Water Quality-based Toxics Control* (TSD) (USEPA 1991);
 - EPA's *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (USEPA 1999);
 - EPA's *Clarifications Regarding Toxicity Reduction and Identification Evaluations in the National Pollutant Discharge Elimination System Program* (USEPA 2001); and
 - *Short Term Methods for Estimating Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organism* (2002), EPA Test Method 1002.0.
 - Terminology in this information request that pertains to the methodology and process for conducting a TIE/TRE shall have the meanings found in the referenced guidance, including, without limitation: "performance evaluation", "toxicity characterization", "toxicity identification", "toxicity confirmation", and "toxicity source evaluation."
15. "Full water chemistry analyses" shall include at a minimum each of the chemical parameters identified in this information request.
16. All documents provided in electronic format should be compatible with .pdf.
17. All spreadsheet information should be in electronic format and compatible with MS Excel.
18. If any question cannot be answered in full, provide an answer to the maximum extent possible and note that a full answer cannot be provided. If Dana Mining's responses are qualified in any manner, please explain.
19. If information or documents are not known or not available to Dana Mining, as of the date of submission of its response to this request and should later become known or available, Dana Mining must supplement its response to EPA. Moreover, should Dana Mining find, at any time after the submission of its response, that any portion of the submitted information is false or misrepresents the facts, Dana Mining must notify EPA of this fact as soon as possible and provide a corrected response.

20. Provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request. Precede each answer with the text and the number of the question and its subpart to which the answer corresponds (*i.e.*, I.1, I.2, ... II.1 etc.).
21. Identify the name, position, and title of all person(s) who answered each question in this Information Request.
22. Each submission pursuant to this request must include a certification statement signed by a person authorized to respond on behalf of Dana Mining.
23. Provide a separate response to each question and subpart of a question set forth in this Information Request. Precede each response with the number of the question and subpart of the question to which it corresponds.
24. For each question, identify each document consulted, examined, or referred to in the preparation of the response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question.
25. Indicate on each document produced in response to this Information Request, or in some other reasonable manner, the number of the question to which it corresponds.
26. If a tabulation is requested, provide the requested information in tabular form in hard copy and also in tabular form in an electronic spreadsheet file of Lotus 1-2-3, Excel, or ASCII delimited format.
27. If requested information or documents are not known or are not available at the time of your response to this Information Request, but later become known or available, the Respondent must supplement its response to EPA. Moreover, should the Respondent find at any time after submission of its response that any portion is or becomes false, incomplete, or misrepresents the facts; the Respondent must provide EPA with a corrected response as soon as possible.
28. Section 308 of the Act, 33 U.S.C. Section 1318, requires the Respondent to provide accurate and complete information in response to the questions contained in this request. All submissions provided pursuant to this Section 308 request shall be signed and dated by a responsible official of the Dana Mining Company of PA, LLC to include the following certification:

“I certify that the information contained in or accompanying this submission is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I certify as having responsibility for the persons who, acting under my direct instruction, made the verification that this information is true, accurate, and complete.”

Signed _____
Title _____

IV. REQUEST FOR INFORMATION

29. Provide copies of the most recent National Pollutant Discharge Elimination System (NPDES) permit reissuance issued to Dana Mining by PADEP for discharges from the Dooley Run Mine, and any modifications to the NPDES permit that have occurred since the last date of reissuance.
30. Provide effluent characterization data for each and every outfall at the Dooley Run Mine. When providing analytical results, include the appropriate detection limits as specified in Item 27 of the PADEP NPDES permit application, and as specified in Tables 2, 3 and 4 of 40 C.F.R. § 122.21 (g) (7), Appendix D.
31. Conduct monitoring for the outfalls identified as Outfalls 001, 002, 003, and 004. Monitoring shall be conducted such that effluent sampling is representative of normal operating conditions:
 - a. Conduct sampling and analysis for Osmotic Pressure (OP). Monitor two times per month.
 - b. Conduct sampling and analysis for selenium two times per month (monitor two times/month with a detection limit of no greater than 2.0 µg/l using standard test method 3113 B (AA, Furnace). Collect individual grab samples at the end of the discharge pipe when discharging and the upstream SMCRA permit monitoring point.
 - c. For every outfall discharge sample collected, measure and record, outfall discharge flow. For every sample collected at an upstream monitoring point, measure and record stream flow. Include all flow measurement results (in gallons per minute or gallons per day) in monitoring result submittals.
 - d. Conduct sampling and analysis for Total Dissolved Solids (TDS), alkalinity, and TDS constituents. For the TDS constituents magnesium, potassium, sodium, barium, strontium, use test method 200.7. For the TDS constituents bromide, chloride, nitrate-n, nitrite-n, and sulfate, use test method 300.0; For alkalinity and the TDS constituents bicarbonate and calcium carbonate use test method SM2320B. For a complete understanding of the effects of TDS on water quality, Calculated Total Dissolved Solids (TDS) should be employed in addition to the measured TDS method SM2540C. Total Dissolved Solids (TDS) shall be analyzed by Standard Methods 2540C or equivalent. The analytical result from the measured TDS will be verified by the use of the Calculated TDS method. The results from method EPA 200.7 for Metals analysis (cations), EPA method 300.0 for Anions, and Standard Methods 2320B for Total Alkalinity will be necessary for determining the Calculated TDS result. The measured TDS value and the sums of the analytical values used to calculate the TDS shall be reported. These associated analytical values shall be reported to the Instrument Detection Level (IDL) or to the Method Detection Level (MDL). The employed analytical methods listed above shall be used to assess the major dominate ions of the effluent steam I.E. Magnesium, Bicarbonate Alkalinity, Carbonate Alkalinity, Calcium Carbonate, Potassium, Sodium, Barium, Strontium, Bromide, Chloride, Nitrate as Nitrogen, Nitrite as Nitrogen and Sulfate.

- e. Conduct sampling and analysis for Specific Conductance two times per month using Test Method 2510 B. Collect individual grab samples at both the discharge point and the upstream compliance point during discharge at the outfall.
 - f. Provide a map (drawn to a definable scale) of the discharge points to Dunkard Creek, and the corresponding upstream and downstream compliance points as established in the SMCRA permit. Provide the latitude and longitude of each sample location.
 - g. The sampling and analysis requirements under Subparagraphs (a) through (e) of this Paragraph shall remain in effect until Respondent is required to conduct such sampling and analysis pursuant to a NPDES permit.
32. Analyze the discharges for Whole Effluent Toxicity (“WET”) testing. Perform monthly WET testing for six (6) consecutive months at each Discharge Outfall, as provided below:
- a. The WET testing shall be chronic WET testing using *Ceriodaphnia dubia* and *Pimephales promelas* as the test species.
 - b. The sampling location for these tests must be at the nearest accessible point after final treatment, but prior to actual discharge to or mixing with the receiving waters.
 - c. All testing must be performed pursuant to EPA Test Method Number 1002.0 and the EPA *Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (2002).
 - d. All samples shall be processed by a NELAC certified laboratory that is certified for WET testing.
 - e. Dana Mining shall initiate the first set of WET testing at each location within 60` days of receipt of this information request.
 - f. One WET test per month for six (6) consecutive months shall be performed at each location.
33. Should results of any single WET testing indicate potential toxicity and additional testing confirms the toxicity, by having a calculated Toxic Unit greater than 1.0, calculated pursuant to EPA’s *Technical Support for Water Quality-based Toxics Control* (TSD) (USEPA 1991) for chronic lethal endpoints (NOEC, EC₅₀, EC₂₅) and/or sublethal endpoints (NOEC and IC₂₅) using the EPA *Short Term Methods for Estimating Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organism* (2002), EPA test method 1002.0, then for each such instance where potential toxicity was identified (“Trigger”), Dana Mining shall perform a TIE/TRE for the associated Outfall in accordance with the following schedule:
- a. Within thirty (30) days of the Trigger, Dana Mining shall submit a work plan to EPA for performing each TIE/TRE, which identifies, among other things, who will be overseeing and performing each portion of the TIE/TRE, all sampling locations, all labs where samples will be sent for analysis and any other pertinent information and data acquisition to determine the scope of each TIE/TRE.
 - b. Within in forty-five (45) days of the Trigger, Dana Mining shall complete evaluations of relevant discharge locations and effluent sources and connected facilities (the “Performance Evaluation”) to, among other things, identify sources of toxicity and

potential treatment deficiencies and potential treatment modifications. Results shall be included in relevant progress reports.

- c. A three-phase TIE shall be performed for each location to identify the cause of toxicity (results of each phase shall be submitted in appropriate progress reports):
 - i) Phase I (toxicity characterization) shall be completed within thirty (30) days of completion of the Performance Evaluation;
 - ii) Phase II (toxicant identification) shall be completed within thirty (30) days of completion of Phase I of the TIE;
 - iii) Phase III (toxicant confirmation) shall be completed within thirty (30) days of completion of Phase II of the TIE;
 - d. A Toxicity Source Evaluation ("TSE") for each location shall be completed within thirty (30) days of completion of the TIE (results shall be submitted in the appropriate progress report); and
 - e. Within sixty (60) days of completing the TSE, a Toxicity Control Evaluation ("TCE") shall be completed, which shall identify and evaluate all options and control methods for reduction of effluent toxicity. The TCE shall include a recommended control method or technology to address each identified toxicity source.
 - f. Each TIE/TRE shall be completed within two hundred and forty (240) days of the Trigger.
 - g. Progress reports for each TIE/TRE shall be submitted to EPA every forty-five (45) days until the TIE/TRE is completed, with the first progress report submitted 45 days following submission of the TIE/TRE Work Plan. Each progress report shall include, without limitation, detailed descriptions of the actions taken to date, any preliminary or final data collected to date, including lab analysis and chemistry data, field logs and schedules for actions planned over the next 45 days.
34. Within thirty (30) days of completion of each TIE/TRE Dana Mining shall provide a final TIE/TRE report that will be given as a Word document and a summary of all available analytical data will be provided in an additional Excel spreadsheet ("TIE/TRE Report"). Additionally, copies of all original bench sheets and chain of custody shall be attached as well as concurrent reference toxicant test data using EPA *Short Term Methods for Estimating Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organism* (2002), test method 1002.0, along with control charts for all point and hypothesis endpoints.
35. In addition to the information identified above and results of the sampling and analysis, the TIE/TRE Report shall include:
- a. The latitude and longitude of each sample location;
 - b. Full water chemistry analyses for each sample location and each sample taken;

Effective Date

This INFORMATION REQUIREMENT is effective upon receipt.

Date: 5/4/2016

for David B. McGuigan

David B. McGuigan, Ph.D.

Associate Director

Office of NPDES Permits and Enforcement